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CITY OF  
**PORTLAND, OREGON**

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**OFFICIAL  
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 6TH DAY OF SEPTEMBER, 1995 AT 9:30 A.M.

THOSE PRESENT WERE: Mayor Katz, Presiding; Commissioners Blumenauer, Hales, Kafoury and Lindberg, 5.

OFFICERS IN ATTENDANCE: Cay Kershner, Clerk of the Council; Ben Walters, Deputy City Attorney; and Officer Chuck Bolliger, Sergeant at Arms.

Agenda No. 1451 was pulled from Consent. On a Y-5 roll call, the balance of the Consent Agenda was adopted as follows:

**CONSENT AGENDA - NO DISCUSSION**

**1441** Cash investment balances July 27 through August 23, 1995 (Report; Treasurer)

**Disposition:** Placed on File.

**1442** Accept bid of McCoy Electric Co. for Council Crest power upgrade for \$58,164 (Purchasing Report - Informal Bid)

**Disposition:** Accepted; prepare contract.

**1443** Accept bid of Continental Detective Agency, Inc. for security services for Police Bureau vehicle storage facility for \$67,980 (Purchasing Report - Bid 11-A)

**Disposition:** Accepted; prepare contract.

**1444** Reject all bids for Ira Keller Fountain improvements (Purchasing Report - Bid 14)

**Disposition:** Accepted.

**1445** Accept bid of Parker Northwest Paving Company for improvement of SW Dolph Street, SW 8th to SW 9th Avenues for \$81,962 (Purchasing Report - Bid C-9872)

**Disposition:** Accepted; prepare contract.

**SEPTEMBER 6, 1995**

**1446** Vacate a portion of SE Ellis Street, under certain conditions (Second Reading Agenda 1410; C-9881)

**Disposition:** Ordinance No. 169252. (Y-5)

**Mayor Vera Katz**

**1447** Confirm appointment of Gail Achterman to the Portland Utilities Review Board (Report)

**Disposition:** Confirmed.

**\*1448** Appoint four Deputy City Attorneys in Office of City Attorney to specified salary rates (Ordinance)

**Disposition:** Ordinance No. 169253. (Y-5)

**Commissioner Earl Blumenauer**

**\*1449** Contract with CTC-Geotek to provide an engineering "forensic" analysis of failed brick paving on the NW Irving-West Burnside (North Transit Mall Extension) project (Ordinance; waive Code Chapter 5.68)

**Disposition:** Ordinance No. 169254. (Y-5)

**\*1450** Correct legal description of certain portions of vacated NE 4th Avenue, NE 5th Avenue, NE 5th Place and NE Suttle Avenue (Ordinance; amend Ordinance No. 168033)

**Disposition:** Ordinance No. 169255. (Y-5)

**Commissioner Charlie Hales**

**1452** Amend contract with the University Hospital of the Oregon Health Sciences University for occupational health nurse services and lab testing at a maximum cost of \$39,300 (Ordinance; amend Contract No. 28523)

**Disposition:** Passed to Second Reading September 13, 1995 at 9:30 a.m.

**\*1453** Amend contract with Structured Communications, Inc. to increase the contract by \$81,400 (Ordinance; amend Contract No. 29713)

**Disposition:** Ordinance No. 169256. (Y-5)

SEPTEMBER 6, 1995

Commissioner Gretchen Kafoury

1454 Accept remodeling by JASCO Construction of the Bureau of Environmental Services Combined Sewer Overflow Project offices as complete and release retainage (Report; Contract No. 29579)

**Disposition:** Accepted.

\*1455 Contract with Richard Ragland, Architect, to provide services for East Portland Community Policing Facility and Southeast Precinct and provide payment (Ordinance; waive Code Chapter 5.68)

**Disposition:** Ordinance No. 169257. (Y-5)

\*1456 Lease agreement for space at Assumption school building for the Police Bureau (Ordinance)

**Disposition:** Ordinance No. 169258. (Y-5)

\*1457 Agreement with the Federal Bureau of Investigation for access to the City's 800 MHz trunking radio system (Ordinance)

**Disposition:** Ordinance No. 169259. (Y-5)

\*1458 Contract with McCoy Electric Company, Inc. for installation of underground primary power service at Council Crest Park Communications Center and provide for payment (Ordinance)

**Disposition:** Ordinance No. 169260. (Y-5)

\*1459 Contract with Multnomah County Legal Aid Services for \$28,767 for legal assistance for victims of domestic violence and provide for payment (Ordinance)

**Disposition:** Ordinance No. 169261. (Y-5)

\*1460 Contract with Multnomah County Legal Aid Services for \$35,707 for Fair Housing Enforcement services and provide for payment (Ordinance)

**Disposition:** Ordinance No. 169262. (Y-5)

\*1461 Contract with Housing Development Center for \$121,970 to provide technical assistance to non-profit developers of affordable housing and provide for payment (Ordinance)

**Disposition:** Ordinance No. 169263. (Y-5)

**SEPTEMBER 6, 1995**

**\*1462** Agreement with Private Industry Council for \$113,817 for the Summer Mini-Proposal Youth Employment and Enrichment Program and provide for payment (Ordinance)

**Disposition:** Ordinance No. 169264. (Y-5)

**\*1463** Contract with Human Solutions Incorporated for \$50,000 to support affordable development and provide for payment (Ordinance)

**Disposition:** Ordinance No. 169265. (Y-5)

**\*1464** Contract with Central City Concern for \$304,314 for the CHIERS inebriate pick-up service and provide for payment (Ordinance)

**Disposition:** Ordinance No. 169266. (Y-5)

**\*1465** Contract with Housing Our Families for \$30,110 for the Boise Target Area project and provide for payment (Ordinance)

**Disposition:** Ordinance No. 169267. (Y-5)

**\*1466** Authorize an agreement with Oracle Corporation for software licensing and training services (Ordinance)

**Disposition:** Ordinance No. 169268. (Y-5)

**Commissioner Mike Lindberg**

**1467** Accept completion of the contract with Delta Electric, Inc. for the Columbia Boulevard Wastewater Treatment Plant Tunnel Wireway System and pay retainage (Report; Contract No. 29747)

**Disposition:** Accepted.

**\*1468** Call for bids for the Darlington sanitary sewer system, authorize a contract and provide for payment (Ordinance)

**Disposition:** Ordinance No. 169269. (Y-5)

**\*1469** Contract with Jensen, Oldani & Cooper to conduct a nationwide executive search for the City-wide Geographic Information System (GIS) Manager and a second GIS position and authorize payment (Ordinance)

**Disposition:** Ordinance No. 169270. (Y-5)

SEPTEMBER 6, 1995

REGULAR AGENDA

Commissioner Lindberg presented a Water Conservation award to Hercules, Inc., a company which produces specialty chemicals for the paper industry. The company's significant efforts include reducing water consumption by 39 percent, saving 75 million gallons of water in 1993 alone, representing about \$80,000 in cost reductions. The Columbia Willamette Water Conservation Coalition was also presented an award for its "waterwise" brochure assisting homeowners in reducing landscape water use.

- \*1451 Intergovernmental Agreement with the City of Lake Oswego in an amount not to exceed \$25,000 for the northern extension of the Willamette Shore Line trolley (Ordinance)

**Discussion:** Commissioner Blumenauer said there has been a long history of intergovernmental cooperation related to preservation of the Willamette Shore Line corridor for future public benefit while making the most out of it today. This project was begun in 1986 when the City Council formed a consortium of local governments and authorized spending \$1.2 million to preserve a line which, if assembled today, would cost between \$10 and \$20 million. Lake Oswego has been the managing partner and this agreement would extend the tracks north.

Alice Schlenker, Mayor of Lake Oswego, said preservation of this line is in the best interests of the region, not just Portland and Lake Oswego. She said the northern extension will make it easier for people to find and access the line. Making the line more "user friendly" is important as in the years to come opportunities for additional ridership may open up. People from all over the world have ridden the trolley and commented positively. She noted too the strong volunteer commitment.

Bill Holstein, former Lake Oswego Council member and President of the Friends of the Willamette Shore Trolley, said he has been amazed at the number of people from around the world who ride the trolley.

Don Stark, attorney who worked with Southern Pacific to get the southern extension into Lake Oswego, said it is very important to the region and both cities not to let railroad lines be abandoned and lost by inactivity. He noted it is being operated without any cost whatsoever to taxpayers.

Commissioner Blumenauer said this corridor is a very difficult one and has many access problems. He said this line, however, can fit right into the Central City Plan and if, in 20 years, it is found to be unsuitable as a rail corridor it will make a magnificent foot path. The point is that it is preserved for the public benefit. He said there is a hunger for the

## SEPTEMBER 6, 1995

street car and it has the potential for enriching a critical part of downtown Portland as well as opening up exciting areas of redevelopment in downtown Lake Oswego.

Commissioner Hales said this is a great partnership and this particular addition to the line will give it more identity and visibility.

**Disposition:** Ordinance No. 169271. (Y-5)

\*1440

**TIME CERTAIN: 9:30 AM** - Create the Brentwood/Darlington HCD District No. 1 Local Improvement District (Hearing; Ordinance introduced by Auditor Clark; C-9895)

**Discussion:** Dan Vizzini, Auditor's Office, said this is a hearing on the first project under the "cheap and skinny street" program. He said his office received one remonstrance and two letters of support. Both the Auditor's Office and the City Engineer will recommend that Council overrule the remonstrance and move this to second reading.

Andre' Baugh, Bureau of Transportation Planning, described the cheap and skinny street program and public education efforts which the Bureau undertook in Brentwood/Darlington regarding this project. The program offers a guaranteed cost of \$1,700 to the owner of an average R5 lot and will provide 20-foot wide streets, drainage, street trees, improved lighting and sidewalks on both sides. The premise of the project was that the street improvements would be combined with the sewer project in the area. At the conclusion of the petition drive on May 31, 1995, the City had secured a district of a mile-and-half of streets comprised of 197 properties and 60 percent petition strength. Seventy percent of the property owners are paying between \$1,000 and \$2,400. Mr. Baugh noted that the reason the cost is so low is because the Bureau of Housing and Community Development is providing a 70 percent subsidy, with residents paying only 30 percent of the cost. The preliminary data indicates that the budget will be on target. He said their information efforts included actually setting up plywood sheets indicating the street design on the streets themselves. Residents also received a design indicating what the street in front of their property would look like. Transportation worked closely with the Bureau of Environmental Services (BES) on a combined bid and to make sure the sewer project stays on track. He showed slides to indicate the current condition of the streets to be improved.

Commissioner Blumenauer said they thought an endangered species might be living in one of the potholes and that held up the project for several weeks.

Commissioner Kafoury said she heard it was a salmon.

## SEPTEMBER 6, 1995

Randall Brenish, Design Manager for the Mid-County Sewer Project, said BES is confident that this partnership will save money for residents and lessen the impact on them.

Mary Davis, 8225 SE 63rd Ave., Vice President, Brentwood/Darlington Neighborhood Association and Chair of the Land-Use Committee, said they found two major resistances to the program, which may be inherent. One was to the 20-foot wide street which limits on-street parking, sometimes forcing people to negotiate with a neighbor about where they are going to park. The other area of resistance was to the price even though the project is heavily subsidized. That is because a substantial proportion of the residents struggle with survival and the cost of anything beyond the day-to-day is a problem. Being combined with the sewer program is good but also bad in that the costs for both pile up. Nevertheless, a majority of the property owners have approved this and the neighborhood association backs it because it meets key public safety components of the Brentwood/Darlington neighborhood plan and provides needed infrastructure for further improvements.

Jim Cleary, Community Development Organizer, Southeast Uplift, said the need here is obvious. He said they got some money from the Bureau of Housing and Community Development in order to do some marketing and make sure everyone in the neighborhood knew about the project and the financing package. Southeast Uplift believes that effort was a success and that the streets were chosen in a fair manner.

Barbara Madigan, Program Manager, Bureau of Housing and Community Development, said this program reflects tremendous inter-bureau cooperation and outstanding grass roots neighborhood involvement.

Ronnie Vostinak, 8106 SE 67th, said improving the substandard streets and sidewalks is very important to her and upgrading the neighborhood should also lower the crime rate.

Monique Johnson, 4700 SE Ogden, said making her street safer is her main concern. Having narrower streets will slow the cars down and having sidewalks for kids to play on will help keep them out of the street. It will also beautify the neighborhood at a time when a lot of young families are moving in and trying hard to make it nicer. This is an economical project that will also increase property values.

Denise Walsh, 4812 SE Ogden, said she and her husband have seen new families move in but at the same time the quality of the streets is declining. The lack of street lighting and sidewalks makes them unsafe for children. Beautification of the neighborhood will also encourage others to move into the neighborhood and increase property values. The

**SEPTEMBER 6, 1995**

improvements are very affordable, even coupled with the sewers, and if people had to pay the full cost, few would probably even consider doing this.

Ron Marx, 6654 SE Lambert, said he moved into the neighborhood this April and has been horrified with conditions in Southeast Portland, including prostitution, barking dogs, deserted cars and horrible streets. It will never be cleaned up until there are streets and sewers out there, as well as more police. He said he heard the City police force is 800 short.

Mayor Katz said there are slightly over two police officers per 1,000, the acceptable standard.

Bernice Webster, 6661 SE Lambert, spoke in opposition. She said the streets are wider now than the new ones will be and narrower streets will make the traffic worse than it is now. Paving the streets will make people drive faster. She said her assessment, almost \$7,200, is unreasonable as she has no more street than anyone else. She said they also have had no vote on this.

Bob Foglio, 5103 SE Knapp, said the neighborhood has been continually improved in the last several years as there are fewer renters and more home owners moving in. This is one of the few neighborhoods left where there is affordable housing. He supports the project and believes it will slow traffic and encourage homeowners to get rid of junker cars currently parked on the street.

Dan Vizzini, Auditor's Office, said the election for LIDs occurs in the form of written remonstrances filed with his office. If the Auditor receives written remonstrances from property owners owning 60 percent or more of the property in the district, then the district would fail and no further action could be taken for six months. In this case, the Auditor's Office mailed notices of this hearing and informed property owners of their right to remonstrate. Out of 197 properties, one written remonstrance was filed. That is the vote. Regarding the assessments, he said in this case the price is based on a fixed rate per foot of property in the district. There are a few oversized properties -- Ms. Webster's property has almost 21,000 square feet of assessable area and could be subdivided. In the mid-county sewer project they are finding that these oversized lots are being subdivided at a historically high rate as the sewer lines come in. As the public improvements are added, property owners are being forced to use their property more intensively than if this had remained a rural setting. He said even with the deep subsidies, all property owners still have access to the City's assessment loan program and can finance the amount over 20 years. At \$16.00 per month on a \$1,700 assessment this is quite a deal. Low-income senior



**SEPTEMBER 6, 1995**

citizens are also eligible for the State deferral program.

Commissioner Blumenauer said new wealth is being created here and First Interstate and others are very interested in helping people pursue various financial options during the next phase and help people build on this foundation.

Mr. Vizzini emphasized that these are guaranteed prices and the estimated assessment is what property owners will be charged when the project is complete. The assessments also will probably not kick in for another year or 18 months. He recommended that the written and oral remonstrances be overruled and the ordinance passed to a second reading.

Commissioner Blumenauer so moved; Commissioner Lindberg seconded and roll was taken.

Commissioner Blumenauer said this area was not well served by government and shows what happens when proper planning does not occur. Now they are finding that there is no cheap solution. He said the citizens have been incredible, going person-to-person to explain this proposal. He said the bureaus have also taken risks they could have done without but all this has resulted in a project that has been nominated for an Oregon League of Cities award. He said it has been gratifying to see this area blossom and what has been learned here can be applied elsewhere.

Commissioner Hales said what has happened here provides a great foundation for other neighborhoods to imitate. The new public improvements will tell people that this is a neighborhood that is cared for, earning it more respect and making it less likely to attract drug houses and speeders. Property will also appreciate.

Commissioner Kafoury said this is a very new way to look at funding government services. She said Mr. Baugh did an exceptional job (for an engineer) of working with citizens.

Mayor Katz said this is a perfect example of what makes Portland a little different from other cities. Outer Southeast was rightfully targeted by Council for additional attention and the organizing efforts of the citizens provides them a golden opportunity to build on this foundation and take on other issues.

**Disposition:** Remonstrances overruled. Passed to Second Reading September 13, 1995 at 9:30 a.m.

**SEPTEMBER 6, 1995**

**1470** Request from Cheryl L. Rohloff to address Council on Resolution 35054 and Agenda Item 1125 (1995) (Communication))

**Discussion:** Cheryl L. Rohloff, Emergency Communications Operator II, Bureau of Emergency Communications employee, said her union is aware of her presence before Council. She said there are many problems in her bureau and for the last 10 months she has been trying to bring attention to them but her efforts have fallen on deaf ears. Instead, she has been labelled a trouble maker. She said dedicated operators work under incredible pressure for managers who believe their jobs are not stressful. The chronic staffing shortage could be eased if management recognized stress beyond the norm. She said management abuses the investigatory process and uses it to harass selected employees for two reasons. One is to eliminate the alleged inadequate employee and the other is to keep the level of intimidation visible to all employees. She said the attrition rate is way out of line -- out of 15 trainees hired last year, only seven are left. Management brought in someone from the outside to run the training program which only increased the resentment and worsened morale. She asked for an independent task force to evaluate management and make recommendations.

Mayor Katz said Council acknowledges that BOEC employees have some of the most stressful jobs. The issues raised will be discussed by Council during the budget process.

**Disposition:** Placed on File.

**1471** Support early implementation of the Region 2040 Plan and continuation of the current urban growth boundary (Resolution introduced by Mayor Katz and Commissioners Blumenauer, Hales, Kafoury and Lindberg)

**Discussion:** Commissioner Hales said because the decision to expand the urban growth boundary will be made shortly, it is important for Council to state that it is willing to take an increased share of population growth in the Portland metropolitan area with the hope that other local governments will do the same so the boundary will not have to be expanded.

Mayor Katz said this is a statement of Council's vision for the community in the next century although it knows some changes will probably occur and Council will have to look at how realistic it is for the City to meet the challenges it has taken on.

**SEPTEMBER 6, 1995**

Commissioner Blumenauer said he hopes this will be part of a series of things Council does to affirm its positions in a way that leaves no confusion.

**Disposition:** Resolution No. 35438. (Y-5)

**Commissioner Earl Blumenauer**

- 1472** Consider vacating NE Emerson Street between NE Martin Luther King Jr. Blvd and NE 6th Avenue in connection with the Blazers' Boys and Girls Club (Hearing; Report; C-9892)

**Disposition:** Approved; City Engineer prepare ordinance. (Y-5)

- 1473** Consider vacating portions of NE 7th Avenue and NE Oregon Street in connection with the Grand Avenue Gateway site (Hearing; Report; C-9893)

**Discussion:** Kathryn Hall, Office of Transportation, asked that Council continue this hearing one week as Tri-Met has raised some concerns about site redevelopment.

Andrew Jannsen, lightrail engineer with Tri-Met, explained the issues they hope to resolve over the next week. He said they are very excited about the prospect of a high density office tower at this site but there has been extensive support for an eastside connector and 7th Avenue has been named as a feasible possibility for an eastside connector. While Tri-Met encourages development at this site, it would like to see the engineer's report revised to include this possibility. An 80-foot right-of-way would be needed to accommodate light rail, traffic lanes and sidewalks. He cited other buildings which have been designed to do that, using setbacks, arcades or other options.

**Disposition:** Continued to September 13, 1995 at 9:30 a.m.

**Commissioner Gretchen Kafoury**

- 1474** Accept a tax foreclosed property from Multnomah County and convey it to Housing Our Families (Ordinance)

**Disposition:** Passed to Second Reading September 13, 1995 at 9:30 a.m.

**Commissioner Mike Lindberg**

- 1475** Become a charter member of For the Sake of the Salmon (Resolution)

**SEPTEMBER 6, 1995**

**Discussion:** Commissioner Lindberg said growing up in Astoria there was such an abundance of salmon he could not ever have imagined a time when there would not be any. He said formation of For the Sake of the Salmon fosters the kind of urban/rural cooperation that is needed to solve natural resource problems in the State. The group particularly supports formation of broad-based watershed councils.

Bill Bradbury, Executive Director, For the Sake of the Salmon, said his organization represents a regional consensus for a self-sustaining population of native fish and a viable public fishery. Joining puts the City on record in support of the group's principles and strategy, which is essentially a watershed-based approach to salmon recovery. The focus will be both on protection of the remaining healthy areas and the restoration of areas hard hit by human habitation.

Commissioner Lindberg noted a letter of support from Mike Houck of the Audubon Society.

Thane Tienson, 2067 NW Irving, said everyone wants to see this remarkable and treasured public resource maintained and restored. Existing institutions have been unable to cope with this, primarily because the salmon do not recognize artificial barriers and because there are a lot of interests at stake. This effort transcends those institutions by focusing on watersheds and on sustaining an environment which supports all the creatures within it. It is also important to maintain viable fisheries, not just create a museum piece. He noted there are 136 dams in the Columbia/Snake River system, with 56 major ones. When they were built a tradeoff was made but no one realized how big a tradeoff it was.

Mayor Katz said after all these years of arguing between urban and rural interests and between the commercial and sports fishermen it is good to finally find everyone cooperating.

**Disposition:** Resolution No. 35439. (Y-5)

**\*1476**

Authorize the Director of Environmental Services to approve an Intergovernmental Agreement with Portland State University to provide services related to the development and implementation of a citizens' watershed stewardship program (Ordinance)

**Discussion:** Commissioner Lindberg said BES is embarking on a new watershed stewardship program as part of its Clean Rivers project.

Dean Marriott, Director, BES, said this is an effort to get citizens off their sofas and out in the watersheds to participate in protecting vital natural resources. BES does not think they could ask for a better

**SEPTEMBER 6, 1995**

partner than Portland State University.

Catherine Collis, BES, said they are about to implement an aggressive citizen stewardship program aimed at providing the public opportunities to become personally involved in maintaining and enhancing the watersheds. The stewardship program has three elements: 1) citizen education; 2) citizen grants for watershed restoration projects; and 3) volunteer management. Portland State University (PSU) will help with curriculum development and program management for a six to eight week weekend course to certify stewardship volunteers in the watershed. PSU interns will work with BES in Fanno Creek and Johnson Creek watersheds to organize volunteers, using that as a model for the remaining City watersheds. PSU will also assist in designing a citizen water quality monitoring program and data base, and will add a watershed management focus to its academic curriculum.

Dr. Barry Messer, PSU School of Urban Affairs, said PSU will provide a field-based study to give students real world managerial experience. Such a program also fosters an appreciation among students for service to the community, social responsibility and enhanced livability. In the past, because of the tight academic time frame and logistical difficulties, students and faculty have been precluded from being more involved in community problem-solving. This stewardship program seems to be an ideal opportunity to lower some of the barriers and expand opportunities for student and citizen participation. He said this partnership is the latest expression of BES staff's energy and creativity.

Sherwyn Davidson, PSU Vice Provost, Academic Affairs, and Dean of the School of Extended Studies, said PSU has created a center for academic excellence whose purpose is to support exactly this kind of reciprocal partnership that addresses mutual needs and allows a cumulative benefit sustained over time. This partnership also focuses on continuing education for citizens.

Barbara Holland, Executive Director, PSU Community Relations, said the essence of an urban university is collaboration with the community. In this case students reach beyond the classroom into the whole community.

**Disposition:** Ordinance No. 169272. (Y-5)

Commissioner Hales moved acceptance of an item to be heard on the Four-fifths agenda. Commissioner Lindberg seconded and, hearing no objections, the Mayor so ordered.

**SEPTEMBER 6, 1995**

**Four-Fifths Agenda**

**\*1476-1** Authorize the Livable City Housing Council to amend development and loan agreement with HOST Development, Inc. and enter into a disbursement agreement with U.S. Bank of Oregon for \$160,000 loan to finance construction of a Woodlawn subdivision (Ordinance introduced by Mayor Katz, and Commissioners Hales and Kafoury)

**Discussion:** Neyle Hunter, Director, Livable City Housing Council, said the attorneys who originally developed the loan agreement settled on formal language that would allow HOST to fund raise and return more proceeds of the Housing Investment Fund, revolving money for future subdivisions. Upon reflection, however, HOST attorneys, decided they would rather lock in the total amount they were required to repay the City. This document changes from an informal agreement that was to return between \$60,000 and \$100,000 to a formal agreement which states that \$60,000 will be returned.

**Disposition:** Ordinance No. 169273. (Y-5)

At 11:23 a.m., Council recessed.

**SEPTEMBER 6, 1995**

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 6TH DAY OF SEPTEMBER, 1995 AT 2:00 P.M.

THOSE PRESENT WERE: Mayor Katz, Presiding; Commissioners Blumenauer, Hales, Kafoury and Lindberg, 5.

OFFICERS IN ATTENDANCE: Cay Kershner, Clerk of the Council; Michael Holstun, Deputy City Attorney; and Officer Chuck Bolliger, Sergeant at Arms.

**REGULAR AGENDA**

**Commissioner Gretchen Kafoury**

- 1478** Liquor license application for Paradise Enterprises, Inc., dba Scoreboard, 4822 SE Division Street, Dispenser Class A liquor license (greater privilege); favorable with restriction recommendation (Report)

**Discussion:** John Werneken, License Bureau, said the Neighborhood Association voted to support this applicant after he entered into a good neighbor agreement. The applicant has shown a willingness to address any problems which arise and has a good track record. He said the License Bureau proposes a favorable recommendation with a request to the OLCC that the licensee be restricted to operating as proposed and in accordance with the good neighbor agreement.

Officer Larry Sievert, Portland Police Drug and Vice Division, said the Police were unable to document crimes attributable to this operation that would impact the neighborhood.

**Disposition:** Favorably recommended with restriction. (Y-5)

- 1479** Liquor license application for Alice Anderson, dba Bob's Tavern, 6517 SE Foster Road, Retail Malt Beverage liquor license (new outlet); favorable with restriction recommendation (Report)

**Discussion:** Mr. Werneken said the applicant has been responsive to Police recommendations regarding problems at this location. The applicant worked six months to develop an operating plan and has signed good neighbor agreements with two neighborhood associations. He said the Bureau would urge the OLCC to restrict the license to require compliance with the operating and good neighbor plans.

Officer Sievert said drug dealing had been a problem at three clubs in the area but Police statistics show a drastic decrease in the number of

**SEPTEMBER 6, 1995**

calls since the change of ownership at this location as well as at the two other clubs.

Jim Perry, 4105 NE 73rd, said this is a case of hidden ownership as Mrs. Anderson's husband Bob will actually manage the place and his name should appear on the license. He said Mr. Anderson is an alcoholic and previously operated The Foster Lunch which was known as a rowdy bar. Mr. Perry said he fears the new operation will attract that unruly crowd back.

Steinar Fuglestad, 4516 SE 65th, 97206, said he was glad to see Foster's Lunch close as it was home to drug dealers and receivers of stolen goods. He said the outside has not been cleaned up and complained about the litter and graffiti. He said the neighborhood is already saturated with liquor outlets and this one should not be approved.

Alice Anderson, applicant, said this is not a case of hidden ownership. Her husband is on disability and does not appear as an applicant because of worries about health insurance. She denied allegations that Foster's had problems with the neighbors and described her upgrading of the site, including eight months of remodeling.

Richard Wallace, 7304 SW 53rd, the property owner, testified to the applicant's honesty. He said he has spent \$23,000 in remodeling costs and worked intimately on the good neighbor agreements with Southeast Uplift, which they plan to comply with in every respect.

Commissioner Hales asked Mr. Werneken why this could not be denied on the basis of saturation and also what happens if the applicant does not comply with the good neighbor agreement.

Mr. Werneken said the Bureau's recommendation would have been different if Ms. Anderson had not willingly worked with the neighborhoods on the agreement and dramatically upgraded the building's appearance. The change in ownership at Foster's Lunch and the two other problem places has resulted in a tremendous reduction in the number of complaints. The OLCC can move for immediate suspension of the license if the applicant fails to live up to the operating plan and good neighbor agreements rather than waiting for the license to come up for renewal.

Commissioner Kafoury moved to approve the application with the restriction noted by the License Bureau. Commissioner Hales seconded.

Commissioner Kafoury said this has been a problem location in the past but the new owner has put in an awful lot of time on this. While she is



**SEPTEMBER 6, 1995**

not extremely comfortable about this operation, she will vote to grant the application with the understanding that the License Bureau will move immediately if problems arise rather than having to wait a year.

Commissioner Blumenauer said good things have been happening on Foster lately and too much is at stake there now to allow problems to go on without taking action.

Commissioner Hales said if the OLCC does not honor these commitments, Council will have to rethink its action.

Mr. Werneken said this has been a successful approach in other areas.

**Disposition:** Favorably recommended with restriction. (Y-5)

1477

**TIME CERTAIN: 2:00 PM** - Appeal of Allvest, Inc., applicant, against Hearings Officer's decision to deny application for a conditional use and design review in order to use an existing building for a rehabilitation services program at 723-737 East Burnside Street (Hearing; 95-00256 CU DZ)

**Discussion:** Michael Holstun, Senior Deputy City Attorney, reviewed the guidelines used in quasi-judicial hearings. No ex parte contacts were declared by Council members.

Ruth Selid, Planning Bureau, said Allvest is appealing the Hearings Officer's denial of a conditional use application for a group living facility to provide from 75 to 98 beds to house both male and female felons within one year of completing their sentences. She described the proposal and showed slides of the site and nearby area. She said Allvest is a privately-owned rehabilitative services company that has operated in Alaska since 1984 and in the state of Washington since June, 1994. Much of the information in support of its application is based on its record of operations in Alaska.

Ms. Selid said the site, which has landmark status, is currently occupied by the Wimbledon Apartments. She noted the presence of the Volunteers of America (VOA) facility, located two blocks south of Burnside, which includes a day care and women's shelter. It also qualifies as an alternative post-incarceration use. The Hearings Officer's denial cited three reasons. The first is Allvest's failure to meet the minimum spacing standard which requires a distance of at least 600 feet between group living uses which are conditional uses. The proposed site is about 585 feet from the VOA facility, which is a non-conforming use in an industrial zone, not a conditional use. The Code section about spacing can be interpreted in two ways. The Hearings Officer interpreted it to require sufficient space between group living

**SEPTEMBER 6, 1995**

uses which have the same characteristics as conditional uses. Under that interpretation the VOA would be included in that category even though it is a non-conforming use rather than a conditional use. The applicant has challenged this interpretation. The second reason for denial involved safety issues. The conditional use criteria address safety to nearby residential-zoned lands only and the Hearings Officer found that the applicant did not provide substantial evidence that this would be assured. The third basis for denial was the Hearings Officer's finding that the proposal was not consistent with the Kerns Neighborhood Plan.

Ms. Selid said in its appeal Allvest raised several interpretative issues which Council will need to address. The first is the 600-foot spacing requirement and whether the VOA facility must be considered in applying this development standard to the Allvest proposal. A second issue is what is meant by the words "nearby residentially-zoned lands" in the conditional use criteria as in this case they are at least six blocks southeast of this site. Furthermore, if there are any residentially-zoned lands, will they be significantly adversely affected by this proposal. Another issue is adequacy of police services. Applicant states the proposal will improve existing conditions. However, the neighborhood and Hearings Officer believe police services are not adequate. Still another issue is whether the plan policies in the Kerns Neighborhood Plan are approval criteria or non-binding standards, as the applicant believes. She listed the applicable approval criteria.

Ed Sullivan, attorney representing Allvest, said they request conditional use and design review approval from Council to allow a rehabilitation facility in an employment zone and in an area which has excellent access to transportation, jobs, education and social services. The proposal was turned down by the Hearings Officer because she thought the 600-foot rule applied, because the described safety procedures were not satisfactory and because certain Kerns Plan policies were violated. Allvest believes the Hearings Officer erred regarding the 600-foot rule as it applies only to any other group-living facility that is also a conditional use. The VOA facility is a non-conforming use, not a conditional use, and could not qualify as one in the zone in which it is located. Even if it were, the standard is adjustable and the application could be granted subject to attaining a 15-foot adjustment. He said there is a great deal of misunderstanding and statistical manipulation about Allvest's security system and programs. Its four facilities in Alaska have the confidence of that state's correctional system and it has also signed contracts to operate four new facilities. There are still fears regarding the siting of such facilities, despite statistics showing they are safe. The evidence also does not bear out the contention that the Kerns neighborhood has been overloaded with social service agencies. Kerns is, however, attractive to agencies whose clients require access to

**SEPTEMBER 6, 1995**

transit, jobs, education and social services. Improvement projects are proposed by Allvest, such as cleanup and graffiti removal. With the passage of Ballot Measures 11 and 17, many facilities similar to this one will be needed. He said Allvest is aware of the responsibilities imposed on it by Multnomah County and the Oregon Department of Corrections in carrying out its programs. Council is dealing here with the land-use portion of the siting process and the way this case is handled is extremely importantly both to Allvest and to those who will come later. He asked for approval.

Patrick Donaldson, safety and security consultant, said he analyzed Allvest's proposal to determine if it met the safety and security issues for the area immediately adjacent to the site. He said he can conclude without equivocation that Allvest has anticipated, recognized and appraised the risks and initiated a series of actions to remove or reduce them. He said approximately 85 percent of the offenses in the State are committed from Multnomah County and, since those offenders do return to their home communities, the question is under what conditions. This is an ideal site because it is at a substantial distance from residential areas, and is centrally located in the middle of a large, primarily commercial-industrial zone. Mass transit is easily accessible and it is also easily accessible and patrolable by law enforcement services. Finally, the only non-emergency exit/entrance sites are on Burnside and easily surveyable. He said Allvest's security plan meets and exceeds those in place at similar facilities throughout the community. In addition, Allvest has agreed to add other elements, including retention of a private security patrol, off-site monitoring and other measures which will make the area safer than it is now. He said the current address has received substantial police services and noted a Police Bureau printout which indicates 3,992 actual reported crimes in and around this patrol grid from January, 1993 through August 31, 1995. He said this indicates police are already responding to calls in this area and contended that the presence of this facility will reduce both calls for service and actual police response. The fear of crime from offenders served by Allvest cannot be discounted but that fear must be weighed against reality. The Allvest proposal ensures community safety and security, rather than adding to the problem.

Bill Weimar, 600 Barrow Street, Anchorage, Alaska, President, Allvest, described his company's operations in Alaska and Washington and how it got involved in this proposal. He said almost all their facilities are accredited by the American Correctional Association and Allvest is nationally recognized for the good job it does. He also outlined its search for this particular site and added that Allvest is sensitive to community needs and has tried to show community organizations how it operates in Alaska.

**SEPTEMBER 6, 1995**

Craig Berkman, member, Citizens Crime Commission, said public policy makers are trying to provide skills so that incarcerated persons can become productive members of the community when they are released. This proposal would return such persons to the community in an intelligent and rational way. He said the area where this is proposed already has one of the highest crime rates in the City and to house a facility here that may further decrease unlawful activity and at the same time provide a quality transition program seems to be a win-win step. He said the City should be in the forefront in promoting public\private partnerships to deal with these correctional issues. A larger question is how the community and State deal with the initiatives passed during the last election and with the consequences of dealing with people set free with very little training or ability to make it on the outside.

Lauren Moughon, 3724 SE Mill, addressed the issue of the overburdening of social services in the Kerns and Buckman neighborhoods. She displayed a map from the United Way Directory of Human Service Agencies in Multnomah County to illustrate the distribution of various agency categories throughout the City. She said it dispels the notion that Buckman and Kerns are carrying more than their fair share of the social service load. Their neighbors on the Westside are also carrying a lot of social services agencies; in both cases this is because it is the perfect place to put them -- in a commercial/industrial zone with access to transit and employment centers. She entered letters in support of the appeal into the record.

Gary Perlstein, criminologist, 5555 SW Childs, Lake Oswego, said he was asked to review the impact of Ballot Measures 11 and 17 as well as the Allvest proposal. He said 85 to 95 percent of offenders are released at some time and most return to their home communities. They need a place to decompress before returning to the community. He said he was very impressed by Allvest, most of whose programs are accredited by the American Correctional Association, a highly respected accrediting organization. All the research shows that putting people in halfway houses is a lot safer than just releasing them.

Pamela Emmons, Jim Griffith & Associates, 1820 SW Vermont, said this facility will not have a major impact on the loss of housing. Their proposal is to enhance an historic landmark, which currently houses a very transient population, with approximately 90 percent of the residents staying there less than a year. She said the Central Eastside Industrial District Plan policy calls for the maintenance of existing housing stock and existing commercial structures until they are converted to other uses as allowed by the underlying zone. They believe the concentration of poverty in the area will be decreased and that this facility will put dollars back in the local community, with 25 to 30 new

**SEPTEMBER 6, 1995**

staff jobs and 75 to 98 gainfully employed residents at the Wimbledon.

Richard Mitchell, 1131 Broadway, Longview, WA, supervisor of work release, Longview Work Release facility, Washington State Corrections Division, said he has been working with Allvest since they took over the contract at his facility. He addressed the make-up of the screening committee there and how it selects work-release candidates. He said no inmate of the facility has ever harmed anyone in the community or committed any crime other than leaving the facility. Through the committee, Allvest has retained close ties and an open relationship with the community, employers and treatment providers.

Mayor Katz said she is particularly interested in hearing how Allvest defines "success" and asked how the acceptance of clients into the program is determined. She also asked about crime and walkaway rates and what finding a job means so that she can understand what "results" mean. She noted that her concerns echo those of the Hearings Officer, who was not satisfied by the response she received.

Bob Stacey, 101 SW Main Street, Suite 1100, attorney representing the Lower East Burnside Boosters, asked that the record be left open for seven days to give him time to review the map entered into the record today by the applicant. He said if the record was left open and applicant filed more material, he would need another seven days to respond.

Mr. Stacey said one of the City's objectives is to avoid over concentration of this and similar uses in an already heavy-impacted neighborhood. He noted a letter in the record from the Bureau of Housing and Community Development (BHCD) stating that Allvest should be encouraged to locate in other areas of Portland that are not as heavily impacted by poverty. BHCD believes this application violates the principles and purposes of the City's Fair Housing strategies and the location policy contained within them. It states that the City will not fund a low-income housing project or proposal in an area with a high concentration of such facilities or a high level of poverty. Such areas have significant social problems and any increase in the concentration of poverty may conflict with other community development objectives for revitalization and neighborhood stabilization. This is based on the belief that the burdens of urban growth should not be so concentrated in one area that the more affluent leave the community. He said the Hearings Officer's decision, which found that the approval criteria were not met, protects Lower East Burnside and Kerns from these kinds of impacts. She found that the minimum spacing standard, which calls for separation of this facility from similar ones by 600 feet, was not met. Another post-incarceration facility, the VOA Women's Shelter, is 585 feet away. Allvest argues that the Code

**SEPTEMBER 6, 1995**

does not apply to that site because VOA was not approved as a conditional use. That is true as it is located in a zone that does not allow this use; it existed before the zone was established as a recognized non-conforming use. But it does effect the area as even the best-managed program impacts surrounding businesses and neighborhoods. Allvest wants Council to adopt a narrow and hypertechnical reading of the Code which defeats its intended purpose. The Code uses "conditional use" to describe the kind of group living facilities to which the spacing standard applies, not the way that facility was approved in the first place. Alternative and post-incarceration facilities are always listed as a conditional use and should always trigger the 600-foot siting requirement. The Hearings Officer also found that the proposal violates Kerns Neighborhood Plan policies, including Policy 11.5 which calls for insuring that Kerns will not be overburdened with Citywide social service facilities. An extraordinary number of such facilities -- 24 with over 1,700 clients -- already exist in the immediate vicinity. No one to date has suggested that a comparable situation exists elsewhere in the City. He said the applicant asserts that the Kerns Neighborhood Plan is inapplicable because it is intended to serve only as a guideline. However, Council adopted this language and the decision-making criterion is clear. He said Council should agree with the Hearings Officer that concentrating special-needs facilities in this low-income neighborhood would be bad for the area and bad for the proposed clients. He noted Mr. Sullivan's assertion that this is the first of many such applications the City will see. Allvest's application should be denied and the City should work with State and County officials to establish a siting policy to deal with future applications and locate regionally-required facilities with regional fairness.

Peter Fry, representing the Central Eastside Industrial Council (CEIC), said six years ago, under another owner, the Wimbledon Apartments had no criminal problems but since then they have grown. It is not the building but the way it is operated. He said the non-conforming issue is not a classification of use but rather a situational use. In the non-conforming category there are many different kinds of uses and as they are expanded they have to meet requirements for their specific use. He said the employment zone (E-siting) here was created by the Central City Plan as it moved away from single-purpose to multiple-use zones. Currently this E-siting zone has 3,000 people living within it and there have been at least 15 residential projects in the area, with an estimate that between 3,000 and 5,000 more residents could be accommodated. The intent of the criteria is to consider the people who actually live next to this building, not just what is shown as residential on the map. In terms of the locational criteria of the Fair Housing process, it only applies if the City accesses or requests City-controlled public funds. While Allvest is a for-profit agency which is not asking for public funds, he said it does not meet a single one of the five exception criteria in the

**SEPTEMBER 6, 1995**

Fair Housing Policy. The Policy's goals were to spread the burden of providing social services among all neighborhoods and to deal with the concentration issue identified both in the Old Town and East Burnside areas. The theory was that users would come forward seeking public funds and ask for a process, which would include neighborhood agreement and fulfillment of the five criteria. He said he fears Allvest, as a for-profit operator, will seek higher revenue by cutting deferred maintenance costs and then blaming any problems on the neighborhood. He said in an area like this it is very difficult to assign blame or cause. The issue of consistency in terms of siting has been violated and what is being done here is different than what will be done in the future. Instead of trying to sell an idea to the neighborhoods, the goal is to work with them to develop their support and a consistent message. In this case, Allvest did not follow a Fair Housing siting process.

Commissioner Lindberg said he did not find anything in the criteria about the demographics or a high level of poverty.

Mr. Stacey said the Kerns Neighborhood Plan uses the term overburdening but does not quantify it. Council would have to define that. The other source, the Fair Housing Policy, does take a quantified approach and defines a high poverty area as one that has 50 percent or more of households below the 50 percent median income level. The Council previously decided that Policy was not directly applicable to land use decisions but would become so if funding were sought. However, the policy objective behind it is to avoid overconcentration of these facilities in poor neighborhoods.

Others speaking in opposition to the Allvest proposal included:

Connie Hunt, owner of the East Bank Saloon and a CEIC director, said this jeopardizes business investments in the area and violates the priorities in the Kerns Action Plan which call for making the area a safe place to shop, visit and work. She said Allvest told the CEIC at one point that it would not pursue this site if the CEIC opposed it.

Rick Parker, business owner at 515 E. Burnside, said the facility should not be located so close to Benson High School. He said the Central City Plan calls for this area to be a gateway, another reason for his opposition.

Gerald McFadden, President and CEO, Volunteers of America (VOA), said he is also a member of the Governor's Community Corrections Advisory Committee, the Governor's Special Criminal Justice Commission and the Multnomah County Community Advisory Committee. He said he opposes this proposal because of its location and its inappropriateness to the community in which it is being

**SEPTEMBER 6, 1995**

proposed. He said VOA currently operates a 40-bed group living facility which is very much the same technically and operationally as the one proposed by Allvest. He said they are not only concerned with the fact that Allvest is within 600 feet of their facility but also with the logistics of having two facilities of this type in such close proximity. This, he believes, poses a significant risk to the community, particularly one as large as is being proposed. He noted that the population of both facilities is composed primarily of individuals who have not completed high school and have limited employability skills. He said he is concerned not only with the issue of other at-risk populations but also with the programs that are offered. He noted that VOA also operates a child care facility within the same 600 square feet and he is concerned about women and children going back and forth in that area. Allvest has continually stated that it would have a zero tolerance policy regarding individuals who drink or use drugs. This position is totally inconsistent with the State and County's ability to absorb individuals back into the State system once they have violated these particular issues. That has been a miscommunication which he noted was omitted from Allvest's presentation today. It was omitted because it was a fallacy. He concluded by noting that places of this nature have to be good both for the community as well as the service and this proposal makes this community vulnerable.

Randy Miller, Produce Row businessman, said the reason the CEIC is so frequently before Council is because so many outsiders are continuously trying to change the area, putting it on the defensive. He said the community already has enough social service agencies. This proposal violated the zoning code and is opposed by every single organization in the community. He said there is no compelling reason for a conditional use here, in an area they are trying hard to revitalize.

Ann Hayes, 400 SE 12th, said this proposal flies in the face of all plans for the area, including the Central City and Kerns Neighborhood plans, and ignores the needs of the low-income residents of the Wimbledon Apartments.

Joanne Ferrero, 230 E. Burnside, said this facility constitutes an unreasonable safety risk, citing a 1994 document prepared by the Alaska Department of Corrections. She noted that of 526 state offenders in halfway houses in Alaska, 407 are in Allvest facilities. A Corrections decision paper states that there was a 33 percent failure rate in community residential centers as of July, 1994. Most of these failures are attributed to drug and alcohol use, with 85 percent of the prison and halfway house population being users. She quoted from the report: "substance abusing offenders in community placements present serious threats to public safety" and cited new crimes committed by residents of halfway houses. In 1994 alone six residents of the Allvest



**SEPTEMBER 6, 1995**

Parkview facility in downtown Anchorage committed new crimes, including operation of a cocaine drug ring run from within the facility. A drunk driving incident, involving an Allvest walkaway, ended in the death of a woman and a 10-year old child. She said Mr. Weimer was in error when he said there had only been three offenders who committed new crimes while residents of halfway houses. He also claimed a 97 percent success rate but does not provide documentation to support that claim. She noted too that the Department of Corrections document stated that, in an 18-month period ending in July, 1994, there were over 160 walkaways from community residential centers.

Melissa Stewart, Chair, Buckman Neighborhood Association, said the Buckman Neighborhood Plan specifically states that its goal is to disperse social service agencies, shelters, halfway houses and other transitional housing in order to stabilize the population and achieve socio-economic diversity. She said approval of the Allvest proposal will have the same effect as throwing out the Plan. Allvest got a fair hearing from the neighborhoods, which oppose it, but proceeded to the Zoning Commission even without neighborhood approval. The Central Eastside is saturated with socially-challenged transients and, even if Allvest makes good its claims, the value will be a short term gain as the 65 Wimbledon residents may become homeless. She said she believes a significant number of the 15 percent of stable residents in the Buckman community (about 600) will no longer feel safe and will leave. She said Allvest has no track record as Mr. Weimer admits that no one has ever tracked individuals who leave its Alaskan facilities.

Mayor Katz said that is one of the questions she raised.

David Browning, 521 SE 18th, said he lives and has his business in the Buckman neighborhood and asked for denial of the appeal. While this appeal clearly fails on technical terms, Allvest has suggested that because of the altruism of the project some of them should be overlooked. That is a back door way of setting policy and the land-use process is not the way to do it.

Gordon Hunter, 2545 E. Burnside, No. 1, President, Metro Community Development Corp., owner of the San Marco Apartments, 2545 E. Burnside, No. 1, described the difficulty of doing affordable housing, noting that it took 18 months to do 54 units in Kerns. There are a total of 56 such units in Kerns currently. Allvest's proposal would wipe out 62 affordable housing units and 19 years of work, which is unacceptable. He is also bothered by its claims to relocate current residents. He said rents in the Southeast have gone up 34 percent in the last two years and, if Mr. Weimer were required under HUD rules to follow the relocation policy, the cost would be about \$7,000 per unit. However, he is offering only from \$414 to \$723 per unit. It would be a

**SEPTEMBER 6, 1995**

crime to shove Wimbledon residents out in the street when there is such a scarcity of affordable apartments. The San Marco, for instance, currently has a waiting list of 28 people.

Bill Lennertz, Kerns Neighborhood Association, said this facility should be broken down into smaller pieces or this will be a social services ghetto. He agreed with Mr. Hunter's comments on affordable housing and the difficulty in replacing 62 housing units.

Susan Marshall, Kerns Neighborhood Association, SE Uplift, said even if the Kerns Plan is not binding, Council should abide by its spirit. This is a fragile neighborhood and, while an ideal site for offenders, it is not appropriate to overburden the neighborhood with social service agencies.

Ed Baldwin, President, Jantzen Federal Credit Union, 2021 NE Sandy Blvd., and Vice-President, Sandy Boulevard Business Association, said the Association is unanimously opposed to this proposal. Speaking for the Credit Union, he said it recently spent several hundred thousand dollars to refurbish an existing building rather than leave the area. He said they oppose this facility as they believe there are already too many social programs that are creating a lot of criminal activity, including prostitution, drug use and graffiti. They are also concerned for their employees and customers. Sandy Boulevard has a bad reputation and the Business Association is working very hard to improve its image in spite of the odds against it. He noted too the proximity of Benson High School. He expressed concern about safety, livability and property values.

Gretchen Hollands, Board Member, Kerns Neighborhood Association, said the neighborhood voted earlier to accept the women's facility and is willing to work with the City on social services but does not want this one. They recognize there is a need and would like to work with the City to find appropriate places for these shelters. Allvest did not address the criteria in the Kerns Plan because they do not meet any of them. Approval of this proposal would remove low-income housing while creating a yearly, ongoing need for 498 additional units of housing, with no plan to meet that need. It would saturate the neighborhood with social services and increase crime rates. She said the Kerns Plan took too much work by the community for the City to now say that its vision is not relevant and asked for denial on that basis.

Lisa Morrison, 2234 NE Couch, said neighbors have been working very hard to make this community better and the Kerns Plan means more than just words to them.

Worth Caldwell, CEIC Chair, said this proposal first went to the CEIC

**SEPTEMBER 6, 1995**

land-use committee, where it was defeated, and then went to the Board, which defeated it unanimously. He said Allvest did not keep its word to the CEIC board that it would take no further steps towards siting it in this location if the CEIC opposed it. He said property values are deteriorating while adult bookstores and nude dancing places proliferate. Graffiti is also a problem. This is not a healthy area although community groups are working hard to make it a better place to live.

John Lanouette, Chair, Lloyd District Community Association, said vast amounts of public and private funds have been invested in the adjacent neighborhood, the Lloyd District. This project raises a public safety concern for the area and the Association urges denial of this appeal.

Margaret Moreland, P.O. Box 82766, said she is the owner of property at 8th and Burnside, directly opposite the Wimbledon Apartments. Her concern is public safety. She said Allvest claims that there will be less crime in the area, citing the high number of police calls and criminal conduct currently stemming from the Wimbledon address. However, this resulted directly from the displacement of Old Town drug dealers and insufficient police presence to handle the problem. She said street thugs managed to get into both the Wimbledon Apartments and the nearby San Marco and argued that the 202 crimes reported in that area in 1994 were in all probability due to criminal activity on the street and cannot be blamed on Wimbledon or adjacent apartment building tenants. She said if the 37 reported crimes at the Wimbledon itself could be attributed to it, the Wimbledon would have been in clear violation of Code 14.120, concerning disruptive activity on business property, and the City should have filed a nuisance case against the building. Officer Herschel Lange has reported that police calls to the Wimbledon have decreased dramatically and the building is not now a problem. She said another faulty comparison is with the Multnomah County operated restitution center as it houses non-violent misdemeanor offenders while Allvest proposes to house State felons.

David Teeter, a tenant of Ms. Moreland's apartment building, said because of the growth in the Lloyd Center and the proximity to Benson High School, this is not the right area for ex-felons to be walking the streets. He said Mr. Donaldson's statements were misleading as the crime reported at the Wimbledon Apartments was primarily caused by outsiders, not those living there.

Jerry Maulett, Co-artistic Director, Imago Dance Company, said they recently purchased a building across from the proposed site and believe approving this facility would undercut their efforts to revitalize the area.

**SEPTEMBER 6, 1995**

Sharon Ward, Chair, Kerns Neighborhood Association, said Allvest is proposing to bring almost 100 felons per year into the Kerns neighborhood and they question how many of those will be homeless after year one and stay in the Kerns area. The second concern is that they are not comforted by the claim of reduced crime in the immediate area and question the effect on crime 10 or 15 blocks away.

Jane Paulson, attorney, 135 NE 24th, 97232, said the main question is whether Allvest can be successful in this neighborhood. She said lower East Burnside is just disgusting right now and she questions the odds of success ex-felons would have in such an environment. Sixth and Ankeny is a very high prostitution area and is also filthy. She noted that no one in the neighborhood supports this and asked how much residents and businesses are supposed to take.

In rebuttal, Mr. Sullivan said this is not a popularity contest and the application should be decided on the basis of whether it meets the approval criteria, which it does. He said any area where such a facility is proposed will make the same arguments regarding the fragility of the neighborhood and crime as are being made here. State policy requires that there be a transition between a secure setting and release into the community. That requires the City to look at halfway houses or rehabilitation facilities. Looking at this population with the patronizing view that they are socially-challenged transients adds nothing to this debate as the issue is whether the criteria are met. Staff said Allvest met the criteria and Mr. Stacey is wrong in stating that the Fair Housing Policy is violated. That policy speaks to those items enacted by the City, such as mass shelters and short term housing, not these facilities. Where the City does have a policy on dispersal, that policy is carried out by the 600-foot rule and is not susceptible to an interpretation beyond what the words say. The words talk about conditional uses. The VOA is not a conditional use and never can be in the zone in which it is located. The Allvest facility was sited here because it is close to transportation, jobs, education and social services. Mr. Donaldson's review of the criminal statistics leads him to predict a drop in calls for service and crime resulting from the siting of this facility here. Mr. Sullivan noted that there is nothing to prevent, by right, the loss of the current housing to a more profitable use. Allvest has tried to meet the housing concerns by a payment to those who would be displaced. The City has a policy on how to handle group living facilities, allowing them as conditional uses. The only clear issue is whether the 600-foot rule applies. It does not. He said the dispersal issue is carried out through the 600-foot rule. Regarding the suggestion that the people released from this facility will become homeless and hang around the Kerns neighborhood, he said people released from prison will gravitate to low-rent, high-crime areas when there are no facilities for them. He said Council should give this facility a year to

**SEPTEMBER 6, 1995**

see how it works and to look at its viability. This facility does meet Code requirements and the appeal should be upheld.

Commissioner Blumenauer said he does not want to see a situation where the applicant paints itself into a corner and where Council makes a decision which makes it harder to deal with siting issues as more such applications are filed. He said he is hopeful that there may be an opportunity to reconsider the applicant's strategy in terms of whether or not they want to do business in Portland and what this record looks like. He said he is not interested in a legalistic decision that could hurt the applicant regarding further business in the City and make it harder to make other siting decisions.

Commissioner Kafoury said the Bureau of Housing and Community Development has offered assistance in this case and is currently working on siting the women's facility. She noted the difficulties in siting such facilities and foresees many more battles over this in the future. She said she takes very seriously the Fair Housing siting policy and noted that just recently a shelter was closed in this neighborhood and the City is now negotiating for another one or two. She said she feels strongly that this is the right program at the right time but in the wrong place. However, if Council says no to this, it does set a precedent which troubles her greatly because of the challenges ahead.

Mayor Katz said all Council members are aware of their responsibility to assist in siting additional transitional facilities for the prison population. This will get worse rather than better and Mr. Stacey is right that the current piecemeal approach is unsatisfactory. The City is partners with Multnomah County, which does not know yet what its plans are or how many or what type of facilities it will need to site in the community. Council will see many more such requests and a strategy is needed that works both for the community, the State and citizens who supported the recent ballot measures.

Commissioner Blumenauer said he believes the zoning provisions cited by the Hearings Officer provide sufficient reason to deny this appeal. There is also the record in terms of the safety provisions, which has been argued is mixed. He would prefer that Council not deal in its findings with the merit or lack of merit of the Allvest program. If Council and Allvest can agree regarding resolution of some of the specific land-use provisions in the Code then they can go forward and work cooperatively as a community trying to deal with broader siting provisions and not include some of the specific language relative to some of the other elements of the record. He said that is not in the best interest of either the applicant or the City as he does not want the City to paint itself into a corner on this.

**SEPTEMBER 6, 1995**

Mr. Weimar said there will be a virtual avalanche of such applications due to the doubling of the prison population by 2001. He said the City needs to demystify and objectify some of the misperceptions about what these kinds of programs do and the threat they represent to the community. He said he does not really understand the housing issue as they will continue to use the building for housing. The key issue for the community is public safety. As Dr. Perlman testified, Allvest believes crime rates do go down. He said one of their programs in Anchorage was sited in an apartment building where in the prior year there had been 141 police calls. The year after, there were four police calls, for traffic accidents out front.

Commissioner Blumenauer said he did not want to reargue the case. His point is to see if Allvest is willing to separate this or be hung with the record as it is here.

Mr. Weimar said he was not clear about what issue was to be separated.

Commissioner Blumenauer said he meant the siting, spacing and interpretation of the conditional use provisions as opposed to making a part of the record Allvest's performance record and this specific program. He said he believes the City's position is sustainable and that will pose problems in the longer term. He said he is trying to see if Allvest is willing to separate that.

Mr. Weimar said they are willing to work with Council in any way they can to solve the problem. There will be a siting problem regardless with these kinds of facilities anywhere. These are not popular things.

Mr. Sullivan asked Commissioner Blumenauer if he meant that the issue of the program was different than the land-use issue. He said he tried to separate that out in his material by saying that the program itself was an issue that was driven by other factors. The siting issue is the one before Council today.

Commissioner Kafoury asked him if he wished to let the record stand and proceed on that basis.

Commissioner Blumenauer said he is willing to work with the City and deal with the siting rather than have the record follow Allvest on both its program and this site. He said he was concerned that this would pose a problem for these programs in the future and for Allvest.

Mayor Katz asked if this was related to her questions regarding the success of the programs. She said while she agrees with Commissioner

**SEPTEMBER 6, 1995**

Blumenauer she still wants to focus on what is being put out in the community that may or may not work. After years of asking the same questions, looking at the data and questioning corrections people, she finds they cannot answer these questions. She said if the City is going to proliferate these programs out in the community, the issue of how success is defined is important. While she wants to separate the two issues, in the long term this is a very important issue for this community.

Mr. Stacey said he thinks what Council is trying to do is have a delicate discussion with the applicant in the context of a contested, quasi-judicial land-use decision. He said he respects the Council's objectives but does not want to have an elongated conversation beyond the limitations Council has imposed. One way to accomplish what Commissioner Blumenauer seems to be suggesting would be for the applicant to withdraw the appeal and discuss these policy objectives outside the context of land use.

Mayor Katz said regardless of what is going to happen today, down the road how success is defined for any program is also very important. She called a two minute recess at the request of Allvest.

Mayor Katz said there is a possibility that if this is decided on the land-use issues, the vote could probably go either way. She said Council would like to continue this for two weeks and allow the applicant to make a decision with regard to what it wants to do with this case. During that time Council will have to review not only some of the land-use criteria for the long term but also the strategy that the City will use as a whole for siting some of these facilities. There is no desire to prohibit the siting of these facilities. It will happen but Council has not had the time (to develop a strategy) nor has it had a clear signal from the County about what it intends to do.

Mr. Sullivan said they accept the two weeks.

Commissioner Blumenauer said he does not think the decision can go either way. He is prepared to vote now to deny this appeal, based on the record, but his intention in seeking a delay is to avoid the inclusion of language that is awkward for Allvest and poses long term problems for the City. He said it might make a difference to the applicant if it has a sense of how other Council members feel.

Mr. Holstun said if the hearing is continued for two weeks, a deadline could be set for the opponents, who requested a continuance. Historically, an additional period of time has been granted to the applicant to respond to that new information. Those deadlines should expire before this returns to Council so that all the written material is

**SEPTEMBER 6, 1995**

in place in two weeks. At that time Council, if it desired, could allow a short period of time for additional argument on the evidence if the matter is not resolved otherwise.

Mr. Sullivan said he and Mr. Stacey agreed to hold the record open for seven days to allow opponents to file materials and then allow seven more days for the appellant to respond.

Commissioner Lindberg asked the City Attorney or Planning Bureau to research whether the City can form a siting committee, similar to the one which sited the Inverness Jail. He said he served on that committee which ended up with community consensus and not too much opposition. He would like to know if the City can actually participate on such a committee as a City government and try to find sites and how that would affect the land-use appeals process.

Commissioner Kafoury said Council might want to consult with Multnomah County, which is the corrections authority in the community.

Mayor Katz said the City is doing that but the County has not yet figured out what it wants and how that translates in terms of impact on the City and County. For that reason, Commissioner Lindberg's suggestion is a little premature. She said she too would vote to deny this today based strictly on the land use issue but does not want other things going into the record that would hurt Allvest's position somewhere down the road. She said she is prepared to withdraw her safety questions but if Allvest returns she will ask them again because she does not believe they have been answered. If this case can be resolved in a way that is a win-win situation for everybody, so be it.

Commissioner Hales said if he were to vote today, he would vote to deny the appeal, based on the evidence he has heard. He said he is less concerned than Commissioner Blumenauer about the weight of the evidentiary record and does not subscribe to the theory that the Council builds a corpus of law that it is then bound by. Rather, in quasi-judicial decisions, it is Council's job to interpret the Code, neighborhood plans and Comprehensive Plans. The public policy issue here is about how the community sites such facilities and because the City is dealing with a competent private operator -- the kind of partner the community needs to make this work -- Council would be wise to not develop a record if possible. These kinds of tough questions and balancing are better fought out in a legislative process than a quasi-judicial one. Allvest did not have that option but perhaps Council can exercise one pretty quickly that will allow a "win-win" solution.



**SEPTEMBER 6, 1995**

Council agreed to hold the record open two weeks, granting one week to opponents of the appeal and one week for appellants to submit responses to the new material. The item was continued for two weeks.

**Disposition:** Continued to September 20, 1995 at 2:00 p.m.; record to remain open until September 13, 1995 at 5:00 p.m.

At 5:00 p.m., Council adjourned.

BARBARA CLARK  
Auditor of the City of Portland

*Cay Kershner*

By Cay Kershner  
Clerk of the Council